

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-458-C - ORDER NO. 2002-421

JUNE 4, 2002

IN RE:	Application of Resort Network Services LLC)	ORDER
	for a Certificate of Public Convenience and)	GRANTING
	Necessity to Provide Intrastate Interexchange)	CERTIFICATE FOR
	Telecommunications Services within the State)	LONG DISTANCE
	of South Carolina and for Alternative)	AUTHORITY AND
	Regulation.)	MODIFIED
)	ALTERNATIVE
)	REGULATION

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Resort Network Services LLC ("Resort" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate, interexchange telecommunications services within the State of South Carolina. In addition, Resort requests that the Commission regulate its business services offerings in accordance with the principles and procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2001) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Resort to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Resort's Application

and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Resort complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene were filed.

A hearing was convened on April 4, 2002, at 10:30 a.m. in the Commission's Hearing Room at 101 Executive Center Drive, Columbia, South Carolina. The Honorable William Saunders, Chairman, presided. Bonnie D. Shealy, Esquire represented Resort. Florence P. Belser, Deputy General Counsel, represented the Commission Staff.

Clayton Oswald, President of Resort, appeared and testified in support of the Application. Mr. Oswald testified that he possesses over seventeen years of sales, marketing and business development management experience and that for the past six years he has held senior management positions with various communications companies. The record reveals that Resort is a limited liability company organized under the laws of the state of Oregon and that Resort has received authorization from the South Carolina Secretary of State to transact business within the State of South Carolina. Resort is a subsidiary of its parent company, Blue Star Communications, Inc.

Resort plans to offer both direct dialed and operator assisted calling to guests at time share and other vacation resorts, also referred to as short term vacation rentals, throughout South Carolina. Resort operates as a switchless-based reseller, and Resort's direct dialed service will be provided over the resold facilities of other certified carriers. For operator assisted calls, live or automated operator treatment is afforded from Resort's underlying carrier based on the response of the end user. Calls are rated based on call duration and extent of operator treatment, if any, and the underlying carrier bills Resort

for transport of the resold long distance and operator traffic. Resort uses AT&T, Global Crossing, and WorldCom as its underlying carriers, and the underlying carrier performs all interexchange switching, routing, and call termination functions.

According to Mr. Oswald, Resort will market its services via personal contact by Resort's employees. Resort intends to market or sell to property management companies which manage numerous vacation rental units, and the end user will be the guests who rent to property units. Mr. Oswald testified he is aware of the Commission's marketing guidelines and that Resort does not intend to use telemarketing in South Carolina. Further, Mr. Oswald stated in his prefiled testimony that rates for operator assisted calls will not exceed those of the dominant carrier and further stated that Resort will comply with the Guidelines for Operator Services Providers and the information to be included on tent cards in South Carolina. At the hearing, Mr. Oswald stated that it is Resort's intention to move beyond charging Operator Services charges and to just charge a flat per minute rate for calls. Rates will be stated on the tent cards in the rooms, and end users can either accept the Resort services or reject those services.

Regarding the Company's technical abilities to offer telecommunications services in South Carolina, Mr. Oswald testified that Resort uses the interexchange carrier services of AT&T, Global Crossing, and WorldCom. Further, Mr. Oswald offered that Resort will only utilize carriers properly certified by this Commission to provide service in this state. Resort is authorized to provide telecommunications services in eight states and had applications pending in North Carolina and South Carolina at the time of the hearing.

The record shows that Resort operates a customer service center, available by dialing a toll-free number twenty-four hours a day, seven days a week. The customer service number is provided in the guest rooms of the resort locations and on customer bills.

Concerning the financial ability of Resort to operate within South Carolina, Mr. Oswald stated that Resort has sufficient resources to provision its telecommunications services. Further, Mr. Oswald offered that the incremental cost of adding service to South Carolina is very small and that Resort expects South Carolina services to yield a sufficient margin to retain or improve Resort's profitability.

As to Resort's managerial abilities to offer the services it proposes to offer in South Carolina, Mr. Oswald's experience includes over seventeen years of sales, marketing, and business development with significant experience in the telecommunications industry. Resort's CEO, Peter H. Farrell, has over eighteen years of leadership experience in the high-tech industry. Mr. Farrell has significant experience in product development.

According to Mr. Oswald, Resort has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Additionally, Resort has never been the subject of an investigation, fined or sanctioned by a state or federal regulatory body. According to the testimony, Resort has neither marketed its services in South Carolina prior to receiving certification nor has Resort received revenues from the completion of intrastate calls in South Carolina prior to receiving certification. Mr. Oswald stated that Resort will

abide by all the Commission's rules, regulations and Orders upon the Company receiving certification to operate as a reseller of intrastate interexchange telecommunications services in South Carolina. Finally, counsel for Resort advised the Commission that Resort agrees to make all changes to its final tariff that were suggested by the Commission Staff and identified those suggestions on the record.

Resort requested that all of its business service offerings be regulated pursuant to the procedures described and set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. It is Resort's intent by this request to have its business services regulated in the same manner as this Commission has permitted for AT&T Communications of the Southern States. Mr. Oswald stated that he understands that alternative regulation has now been modified by this Commission because of the re-imposition of rate caps with regard to certain "operator assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as their toll provider. Mr. Oswald acknowledged that he understands that Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat-per-minute rate associated with these calls. Further, counsel for Resort noted tariff changes concerning these charges to bring Resort's proposed tariff into compliance with Order No. 2001-997.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Resort is organized as a limited liability company under the laws of the State of Oregon and has been authorized by the Secretary of State of South Carolina to transact business within the State of South Carolina.

2. Resort is a provider of long distance services and wishes to provide long distance services in South Carolina.

3. Resort has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Resort to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for the long distance services of Resort which are consistent with the principles and procedures established for alternative regulation for business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

Under the Commission approved alternative regulation, the business service offerings of Resort including consumer card services, and operator services, are subject to

a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain “operator-assisted calls” where a consumer uses a local exchange carrier’s calling card to complete a call from a location which has not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Resort also.

3. The Commission adopts a rate design for Resort for its resale of residential interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. Resort shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Resort

shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff, which would be applicable to the general body of the Company's subscribers, shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provision of S.C. Code Ann. §58-9-540 (Supp. 2001).

5. If it has not already done so by the date of issuance of this Order, Resort shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations. Further, Resort shall file a copy of its Bill Form as required by 26 S.C. Code Ann. Regs. 103-612.2.2 and 103-622.1 (1976) with its final Tariff.

6. Resort proposes to provide operator services in aggregator locations, Resort shall comply with the following conditions:

- (a) For intrastate 0+ operator assisted and calling card calls originating from pay telephones outside confinement facilities and at aggregator locations, Resort may not impose operator service charges greater than the intrastate charges

then currently approved for AT&T. For the usage portion of the call, Resort may not charge more on interLATA calls than the intrastate interLATA rates charged by AT&T Communications for interLATA calls or on intraLATA calls than the intraLATA rates charged by BellSouth Telecommunications for intraLATA calls.

- (b) Resort is allowed to incorporate in its tariff a surcharge (property imposed fee) on operator-assisted and calling card calls not to exceed \$1.00 for calls originating from payphone (excluding pay telephones associated with inmate calling service) and from aggregator locations, only if the property owner has not added a surcharge already. That is, Resort may not impose an additional surcharge to calls originating from pay telephones and from aggregator locations if a property owner has already imposed such a surcharge. If such a surcharge is applied by Resort on behalf of the property owner, Resort is directed to pay the surcharge in its entirety to the property owner. Further, if the surcharge is applied, the end user should be notified of the imposition of the surcharge. This notification should be included in the information pieces identifying Resort as the operator service provider at that location.

- (c) Resort is required to provide information pieces to pay telephone service providers or property owners identifying Resort as the provider of the operator service for authorized calls originating from the location. Resort is required to brand all calls identifying itself as the carrier. The information pieces shall be

consistent with the format approved by the Commission in Order No. 93-811, issued in Docket No. 92-557-C.

- (d) Regarding the provision of operator services, Resort shall comply with the Operator Service Provider Guidelines approved in Order No. 93-534, issued in Docket No. 93-026-C.

7. Resort is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

8. With regard to Resort's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

9. Resort shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Resort changes underlying carriers, it shall notify the Commission in writing.

10. Resort shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, Resort shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Resort shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The

“Authorized Utility Representative Information” form can be found at the Commission’s website at www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, Resort shall promptly notify the Commission in writing if the representatives are replaced.

11. With regard to the origination and termination of toll calls within the same LATA, Resort shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, the Company shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

12. The Company’s request to maintain its books in accordance with Generally Accepted Accounting Principles (GAAP) is granted.

13. The Company also requests a waiver of 26 S.C. Code Ann. Regs. 103-610 (Supp. 2001) which requires the Company’s books and records to be kept in the State of South Carolina. The Company desires to keep its books and records at its principal place of business. We find that strict compliance with 26 S.C. Code Regs. 103-610 (Supp. 2001) would produce unusual difficulty for the Company as Resort has no offices located in South Carolina. We therefore find and conclude that a waiver of S.C. Code Regs. 103-610 (Supp. 2001) would be in the public interest. However, Resort shall maintain its

maintain its books and records at its principal headquarters and shall make available its books and records upon request of the Commission or its authorized representative at all reasonable hours and at a reasonable place. With the understanding that Resort will make available its books and records to the Commission or its authorized representative upon request at reasonable hours, Resort 's request for a waiver of Regulation 103-610 is granted.

14. Resort is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

15. Resort shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Resort shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations for Interexchange Companies and AOS." This form shall be utilized by the Company to file annual financial information with the Commission. Commission gross receipts forms are due to be filed with the Commission no later than October first of each year.

16. Each telecommunications company certified in South Carolina is required to file annually the Intrastate State Universal Service Fund (USF) worksheet. This worksheet provides the Commission Staff information required to determine each

telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than August 15th.

17. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director
(SEAL)